

United States District Court

SOUTHERN

DISTRICT OF

NEW YORK

SHAFAYETTE SAKIP, an infant by
his Parents and Natural Guardians,
SADIA BEGUM and MOHAMMED UDDIN,
and SADIA BEGUM and MOHAMMED UDDIN,
Individually,

V.

UNITED STATES OF AMERICA

SUMMONS IN A CIVIL CASE

CASE NUMBER:

06 CV 2719

JUDGE BATTS

TO: (Name and address of defendant)

DAVID N. KELLY, ESQ.
U.S. ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK
THE SILVIO J. MOLLO BLDG.,
ONE SAINT ANDREW'S PLAZA
NEW YORK, NEW YORK 10007

ATTORNEY GENERAL,
ANDREW GONZALEZ, ESQ.
U.S. DEPARTMENT OF JUSTICE
950 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20530-0001

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

PEGALIS & ERICKSON, LLC
1 HOLLOW LANE, SUITE 107
LAKE SUCCESS, NEW YORK 11042

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an answer to the complaint which is herewith served upon you, within _____ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

APR - 7 2006

CLERK

DATE

(BY) DEPUTY CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHAFAYETTE SAKIF, an infant by :
his Parents and Natural Guardians, :
SADIA BEGUM and MOHAMMED UDDIN, :
and SADIA BEGUM and MOHAMMED UDDIN, :
individually, :

COMPLAINT
CV#

Plaintiffs, :

-against-

06 CV 2719

UNITED STATES OF AMERICA,

Defendant. :
-----X

JUDGE PATTS

Plaintiffs, SHAFAYETTE SAKIF, SADIA BEGUM and MOHAMMED UDDIN,
complaining of the defendant, UNITED STATES OF AMERICA, by their
attorneys, PEGALIS & ERICKSON, LLC, respectfully allege as follows:

**AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF PLAINTIFFS**

1. This medical malpractice action arises under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671, et. seq. On March 22, 2005, administrative claims were filed with the Department of Health & Human Services, Claims Branch, PSC/AOS/DAM, Room 5C - 10, Parklawn Building, 56 Fishers Lane, Rockville, Maryland 20857. The claims have not been settled for more than six months.

2. Plaintiffs, SHAFAYETTE SAKIF, SADIA BEGUM and MOHAMMED UDDIN, currently reside at 1761 Eastburn Ave., Apt. 4C, Bronx, NY 10457-6915.

3. Bronx Lebanon Hospital, and its Clinics, and their agents, partners, servants, employees and/or associates were, at

all times relevant herein, and still are, owned, operated, managed and under the exclusive control of the Department of Health & Human Services, Rockville, Maryland, an agency of the defendant, **UNITED STATES OF AMERICA**.

4. That the plaintiffs, **MOHAMMED UDDIN and SADIA BEGUM**, were, at all relevant times herein, and still are, the parents of the infant plaintiff, **SHAFAYETTE SAKIF**.

5. That on or about April 13, 2004, plaintiff, **SADIA BEGUM**, gave birth to infant plaintiff, **SHAFAYETTE SAKIF**, at **BRONX LEBANON HOSPITAL CENTER** and received medical care and treatment provided by agents, servants, partners, employees and/or associates of the defendant, **UNITED STATES OF AMERICA**, at Bronx Lebanon Hospital and its Clinics.

6. Defendant, **UNITED STATES OF AMERICA**, through its agents, servants, partners, employees and/or associates, was expected to render standard, proper and careful medical care and treatment, in accordance with good and accepted medical practices, methods, standards and procedures.

7. Defendant, **UNITED STATES OF AMERICA**, through its agents, servants, partners, employees and/or associates, departed from good and accepted medical care and treatment, and the physicians and other personnel at Bronx Lebanon Hospital and its Clinics, were negligent and careless in said care and treatment, and said care and treatment was not in accordance with good and accepted medical practices then and there existing.

8. Defendant, **UNITED STATES OF AMERICA**, through its agents,

servants, employees and/or associates was careless and negligent in that its personnel failed to adequately and properly diagnose, care for, treat and manage the prenatal course, the labor and delivery and post-delivery course, neonatal and pediatric care and treatment concerning such pregnancy and delivery and as such, the infant plaintiff, was allowed, caused and permitted to suffer severe and significant and irreparable injury and damage all of which was avoidable by the exercise of due and reasonable care on the part of the defendant herein without the infant plaintiff or the obstetrical mother being contributorily negligent thereto.

9. By reason of the above premises, infant plaintiff, SHAFAYETTE SAKIF, was caused to suffer severe and irreparable personal injuries and damages, which were otherwise avoidable by the exercise of due and reasonable care, and as such, infant plaintiff, SHAFAYETTE SAKIF, specifically set forth a substantial cause of action for damages in the amount of One Hundred Million dollars (\$100,000,000.00).

AS AND FOR A SECOND CAUSE OF ACTION
ON BEHALF OF PLAINTIFFS

10. The plaintiffs repeat, reiterate and reallege each and every allegation set forth in the First Cause of Action as if set forth in full herein.

11. That at no time was the plaintiff or his parents ever advised, either orally or in writing, of the possible risks and dangers nor the possibility of permanent damage to the infant's

body with regard to the care being rendered to both his obstetrical mother and the infant plaintiff, nor were they ever advised that the infant may suffer severe or personal injuries and damages, and had the defendant or any of its agents, servants, employees and/or associates informed or advised the plaintiffs of the possible risks involved, the plaintiffs would not have been lulled into a false sense of security and would never have consented to the treatment rendered to the infant plaintiff and his obstetrical mother, all of which resulted in damage to the infant plaintiff herein.

12. That as a result of the foregoing, the infant plaintiff has been damaged in the amount and manner aforesaid in a substantial sum of money to be determined by a Court and jury in excess of the jurisdictional limits of all lower Courts which would otherwise have jurisdiction over this action.

13. That by reason of the above premises, the medical care and treatment rendered and afforded to the infant plaintiff, SHAFAYETTE SAKIF, was without first obtaining an informed consent, and, as such, the plaintiffs have been damaged, and set forth a substantial cause of action in the amount of Five Million Dollars (\$5,000,000.00).

AS FOR A THIRD CAUSE OF ACTION
ON BEHALF OF PLAINTIFFS

14. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the First Two Causes of Action as if set forth in full herein.

15. That by reason of the carelessness and negligence of the

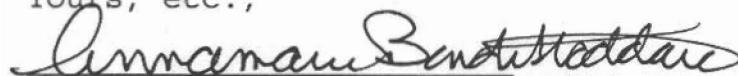
defendant, **UNITED STATES OF AMERICA**, individually, jointly and severally, and through its officers, agents, servants, partners, employees and/or associates, plaintiffs, **MOHAMMED UDDIN and SADIA BEGUM**, were deprived of the services, love and affection of their infant, **SHAFAYETTE SAKIFF**, and have been and will be obligated to expend sums of money for his medical care and treatment.

16. That by reason of the foregoing, **MOHAMMED UDDIN and SADIA BEGUM**, have been damaged in a substantial sum of money and sets forth a substantial cause of action for damages in the amount of One Million Dollars (\$1,000,000.00).

WHEREFORE, the plaintiffs, **SHAFAYETTE SAKIF, SADIA BEGUM and MOHAMMED UDDIN**, demand judgment of the defendant, **UNITED STATES OF AMERICA**, in the total amount of One Million and One Hundred Thousand Dollars (\$1,100,000.00).

Dated: Lake Success, New York
April 6, 2006

Yours, etc.,



ANNAMARIE BONDI-STODDARD 0027

PEGALIS & ERICKSON, LLC

Attorneys for Plaintiff(s)

1 Hollow Lane

Lake Success, New York 11042

(516) 684-2900

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHAFAYETTE SAKIF, an infant by :
his Parents and Natural Guardians, :
SADIA BEGUM and MOHAMMED UDDIN, :
and SADIA BEGUM and MOHAMMED UDDIN, : AFFIDAVIT OF SERVICE BY
individually, : MAIL
: CV# 06 CV 2719
Plaintiffs, : Judge Batts
:
-against- :

UNITED STATES OF AMERICA,
Defendant. :
-----X
STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

BONNIE CHRISTENSEN, deposes and says:

1. That she is over the age of eighteen (18) years of age and resides at Elmont, New York.

2. That on April 7, 2006, deponent served the within SUMMONS AND COMPLAINT by depositing a true copy thereof in a properly sealed, certified mail and return receipt postpaid envelope, in a post office box regularly maintained by the Post Office of the United States addressed as follows:

TO: DAVID N. KELLY, ESQ.
U.S. ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK
THE SILVIO J. MOLLO BLDG.
ONE SAINT ANDREW'S PLAZA
NEW YORK, NEW YORK 10007

ATTORNEY GENERAL
ANDREW GONZALEZ, ESQ.
U.S. DEPARTMENT OF JUSTICE
950 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20530-0001

that being the address designated on the latest papers served by them in this action.


BONNIE CHRISTENSEN

Sworn to before me this
7th day of April, 2006.


Notary Public

IVORY FRANK
Notary Public, State of New York
No.01FR6136542
Qualified in Queens County
Commission Expires November 7, 2009